

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF PUERTO RICO

In re:  THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO,  as representative of  THE COMMONWEALTH OF PUERTO RICO, <i>et</i> <i>al.</i>  Debtors. <sup>1</sup>
In re:  THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO  as representative of  PUERTO RICO ELECTRIC POWER AUTHORITY,  Debtor.

PROMESA Title III	
Case No. 17 BK 3283-LTS (Jointly Administered)	RECEIVED AND FILED CLERK'S OFFICE USDC PR
PROMESA Title III	2023 JUN 9 PM1:42
Case No. 17 BK 4780-LTS	

RUBEN OLIVERAS RIVERA OBJECTION TO THE CONFIRMATION OF THE  
PUERTO RICO ELECTRIC POWER AUTHORITY'S PLAN OF ADJUSTMENT

TO THE HONORABLE DISTRICT COURT FOR THE DISTRICT OF PUERTO RICO  
COMES NOW RUBEN OLIVERAS RIVERA, as party in interest pursuant to 11 U.S.C. § 1109,  
appearing *pro se* pursuant to 28 U.S.C. § 1654, and respectfully requests that the Court denies the  
confirmation of the Modified Second Amended Title III Plan of Adjustment of the Puerto Rico  
Electric Power Authority, ECF No. 3296 ("Plan of Adjustment").

PRELIMINARY STATEMENT

1. RUBEN OLIVERAS RIVERA is a party in interest in the Puerto Rico Electric Power

<sup>1</sup> The Debtors in these Title III Cases, along with each Debtor's respective Title III case number and the last four (4) digits of each Debtor's federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation ("COFINA") (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority ("HTA") (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("ERS") (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686); and (v) Puerto Rico Electric Power Authority ("PREPA") (Bankruptcy Case No. 17 BK 4780-LTS) (Last Four Digits of Federal Tax ID: 3747). (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations.)

Authority's ("PREPA") Title III Bankruptcy. See 11 U.S.C. § 1109(b). He started working for himself about four years ago from his mom's house. He aspires to have a commercial place to expand his business possibilities and to create employment opportunities for other people.

2. RUBEN OLIVERAS RIVERA is a resident of Toa Baja, Puerto Rico. He is an entrepreneur who offers online music lessons and works from home. He is also a professional musician. As an entrepreneur he is affected by all the fluctuations of the economy and to guarantee a small profit he must control all his expenses and minimize his fixed expenses as much as possible. He is a taxpayer and neither as a person nor as an entrepreneur does he receive financial aid from the government. He lives with his mother who is a retired woman subject to a pension. He has continued to operate his way of earning a living at the limit of the business, even taking losses. Any increase in fixed expenses dooms him to loss. Another increase in electricity will force him to look for another alternative to earn a living and it would put an end to the effort accumulated by the work already done that was also projected to create employment for others.
3. The question of who is a "party in interest" should be answered on a case-by-case basis. The definition is non-exhaustive. It generally refers to anyone with a financial stake or significant legal or practical stake in the outcome of bankruptcy. See, for example, Savage & Assocs. P.C. v. K&L Gates LLP (In re Teligent, Inc.), 640 F.3d 53 (2d Cir. 2011). That should mean anyone who will be significantly impacted.
4. **The Plan of Adjustment proposes to impose a Legacy Charge on the electric bills of residential and commercial customers for the next 35 years or more. This will cause me an economic damage that I could not have prevented in any way because it is not related to my life habits or financial decisions. As this damage was not foreseeable, it was not contemplated in business plan. Another increase in the electric bill would make it more difficult for me to get new customers. The arts are not a discipline of first necessity. As the entire town of Puerto Rico, where most of my clients and potential clients are, is affected, my chances of maintaining my livelihood are reduced or perhaps frustrated. In my case, another increase could cause me to leave the island again to go live in the United States. I fight with all my might so that this is not the case because I want to be by my mother's side for the remaining years of her life.**
5. Therefore, Rubén Oliveras Rivera is a party in interest that "may raise and may appear and be heard on any issue in a case under this chapter." 11 U.S.C. § 1109(b).

### **PROCEDURAL BACKGROUND**

6. For over a decade, Puerto Rico's economy has been in trouble and, by 2016, its massive debt became unsustainable. On June 30, 2016, PROMESA was signed into law. 48 U.S.C. § 2101 et seq. It created Title III to allow the territory access to bankruptcy relief for its instrumentalities. On July 2, 2017, the Financial Oversight and Management Board for Puerto Rico ("Oversight Board") initiated a Title III case for PREPA. On December 16, 2022, the Oversight Board filed the first *Title III Plan of Adjustment of the Puerto Rico Electric Power Authority*. This has been amended 3 times. The current version of the Plan of Adjustment was filed on March 1, 2023.

### **LEGAL ARGUMENT**

7. Section 314 of PROMESA has the requirements for the confirmation of a Plan of Adjustment. 48 U.S.C. § 2174(b).

The Title III court shall confirm a plan of adjustment so long as certain requirements are met, including that: the debtor is not prohibited by law from taking any action necessary to carry out the plan; . . . any legislative, regulatory, or electoral approval necessary under applicable law in order to carry out any provision of the plan has been obtained, or such provision is expressly conditioned on such approval; . . . [and] the plan is feasible. Fin. Oversight & Mgmt. Bd. for P.R. v. Federacion de Maestros de P.R., Inc. (In re Fin. Oversight & Mgmt. Bd. for P.R.), 32 F.4th 67, 76 (1st Cir. 2022)(citation omitted).

8. The Plan of Adjustment is not feasible for the reasons stated in the expert declarations of Mr. Tom Sanzillo, ECF No. 3416; Dr. José I. Alameda Lozada, ECF No. 3417, Mr. Agustín Irizarry, ECF No. 3414.
9. "Under PROMESA, a plan of adjustment must be supported by financial projections that are 'reasonable and demonstrate a probability that the debtor will be able to satisfy its obligations under the Plan.'" In re Fin. Oversight & Mgmt. Bd., 637 B.R. 223, 302-03 (D.P.R. 2022).
10. This means asking: "Is it likely that the debtor, after the confirmation of the Plan of Adjustment, will be able to sustainably provide basic municipal services to the citizens of the debtor and to meet the obligations contemplated in the Plan without the significant probability of a default?" Id.
11. The Plan of Adjustment will affect Puerto Rico's economy and ratepayers, such as Rubén Oliveras Rivera. Therefore, PREPA will not be able to generate enough revenue and comply with its obligations to creditors or to the people of Puerto Rico. Because of this, the Plan of Adjustment is not feasible.

**CONCLUSION**

12. In conclusion, this Court should not confirm the Plan of Adjustment because it does not meet the requirements under PROMESA. Additionally, the confirmation of the Plan of Adjustment would cause great prejudice to Rubén Oliveras Rivera and the people of Puerto Rico.
13. PREPA's restructuring is very important, because electric power is necessary both for consumers and businesses alike. It is the driving force of Puerto Rico's economy. If PREPA's restructuring becomes too burdensome on the people and businesses of Puerto Rico, it will affect any possibility of economic growth and development.

**RELIEF REQUESTED**

**WHEREFORE**, Rubén Oliveras Rivera respectfully requests that the Court take notice of the above stated and deny the confirmation of the Plan of Adjustment.

**I HEREBY CERTIFY** that on this same date I conventionally filed the foregoing with the Clerk of the Court. A copy of this document will be emailed to all case participants.

In Toa Baja Puerto Rico, this 9<sup>th</sup> day of June 2023.



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